## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI CENTRAL DIVISION

MICHAEL DONALD OWSLE' Register No. 122118,	Υ,	)	
		)	
Plaintiff,		)	
		)	
V.		)	No. 04-4207-CV-C-NKL
		)	
JILL McGUIRE, et al.,		)	
		)	
Def	endants.	)	

## **ORDER**

By notice of June 6, 2005, plaintiff seeks certification of an interlocutory appeal. Plaintiff's notice of appeal triggers the assessment of a \$255.00 appellate filing fee and constitutes consent for the deduction of that fee from his inmate account. 28 U.S.C. § 1915 (as amended Apr. 26, 1996); *Henderson v. Norris*, 129 F.3d 481, 484 (8th Cir. 1997).

Under 28 U.S.C. § 1292(b), an interlocutory appeal may be taken if the order from which an appeal is to be taken "involves a controlling question of law as to which there is substantial ground for difference of opinion and . . . an immediate appeal from the order may materially advance the ultimate termination of the litigation" and the court so certifies. In the instant case, the court finds that an appeal from the decision of this court to dismiss plaintiff's ADA claims is not proper for certification under section 1292(b).

The denial of certification of an interlocutory appeal by the district court does not relieve plaintiff of the obligation to pay the \$255.00 appellate filing fee. Accordingly, plaintiff's financial documentation has been reviewed and an initial filing fee has been calculated.

On July 6, 2005, plaintiff filed a request to transfer his appeal to the United States Court of Appeals for the Eighth Circuit.

IT IS, THEREFORE, ORDERED that plaintiff's motion for certification of an interlocutory appeal is denied. It is further

ORDERED that plaintiff's initial filing fee is calculated at \$5.03 and the Missouri Department of Corrections is directed to deduct from plaintiff's inmate account, and forward to the court, the initial filing fee and installment payments, in accord with the provisions of 28 U.S.C. § 1915, until the \$255.00 appellate filing fee is paid in full. It is further

ORDERED that all further proceedings and pending motions in this case are stayed pending the outcome of plaintiff's interlocutory appeal.

<u>/s/</u>

NANETTE K. LAUGHREY United States District Judge

Dated: August 1, 2005 Jefferson City, Missouri